

Monthly Report March 2013

Kentucky Dept. for Libraries & Archives



Serving Kentucky's Need to Know

Library Legislative Day a Success!

The KPLA Advocacy Committee would like to thank the 225 library supporters including many trustees and Friends who attended Library Legislative Day on February 20. This marked the highest turnout ever. At this point, library supporters continue to stress to Kentucky's senators that libraries, with the help and oversight of KDLA, are a role model of good governance. There is no reason to break that model by making changes to House Bill 1 as presented by the House of Representatives.

KYVL Member Survey

"Kentucky Virtual Library staff, the KYVL Alliance advisory group and the KYVL Leadership Team have been working since July 2010 to implement the goals and objectives outlined in the first KYVL strategic plan. If you are a member library of the Kentucky Virtual Library consortium, KYVL and its volunteer advisory work teams request that you provide feedback on KYVL benefits to you and your organization. Please take few minutes to rate the services and resources and share ideas on what could be improved. Please go to https://www.surveymonkey.com/s/KYVL_SP2013 to take the survey. The survey will close on March 15th."

KPLA Conference Reminder

The 2013 Kentucky Public Library Association Conference is coming up quick! The conference is April 8-10th in Lexington, Ky. This year's theme "Kentucky Public Libraries – On Target" will feature a wealth of insightful and informative programs on topics of interest to all public library staff and trustees. Don't forget, there is an all-day pre-conference planned for trustees who wish to receive initial certification. To register and view the tentative program, please see <http://kpla.org/spring-conference/2013-conference>.

Kentucky public libraries provide books and much more

"Kentucky's public libraries are providing new digital services along with books and other items at an unprecedented level, according to statistics compiled by the Kentucky Department for Libraries and Archives (KDLA) from annual reports submitted by Kentucky's 119 public library systems. Kentuckians checked out almost 20 million books from public libraries and bookmobiles in addition to more than nine million audio visual items in 2012, while welcoming almost 20 million visitors and serving many more through websites offering a wide range of services. 'These numbers debunk the myth that libraries aren't a necessity in the Internet age' said State Librarian and Commissioner of the Kentucky Department for Libraries and Archives, Wayne Onkst. 'On the contrary, the data show that children are checking out books and other materials, as well as attending educational programs more than ever before.'"

Education and Workforce Development Cabinet Press Release. Feb. 12, 2013.

Lexington library, health department remove signs banning firearms

"Officials with the Lexington-Fayette Health Department, public library and Lextran say signs will come down or changes will be made to their policies on firearms in order to comply with state law. All three Lexington agencies sought legal opinions last month after a revision to state law went into effect, barring local governments and government agencies from regulating guns."

Lexington Herald Leader. February 15, 2013

<http://www.kentucky.com/2013/02/15/2518874/lexington-library-health-department.html>

KDLA March 2013 Trustee Tip of the Month Trustee Oath of Office

Undertaking a public office in Kentucky generally requires swearing or affirming an oath for that office. This is found in KRS 62.010, where it states, "Each person appointed to an office shall take the oath of office within thirty (30) days after he receives notice of his appointment." The exact form of that oath is not specified in statute.

During the past several years, there have been two oaths of office in use by Kentucky public library boards: one containing the "code duello" (the affirmation that the board member has not taken part in a duel), and one which does not contain this provision. It should be noted that section 228 of the Kentucky Constitution presents the "code duello" oath, and changing that would require a constitutional amendment. The Kentucky legislature has considered dropping the "code duello" from the oath many times in recent years, reasoning that it was an outdated concept which was not needed in the modern world.

In a practical sense, which oath is utilized is largely unimportant. The Kentucky Supreme Court has held that possible inconsistencies in the administration of the oath did not invalidate the appointment to office, and that "[W]hen a man is exercising and discharging the general duties of an office, claiming right thereto under a commission or appointment, he is an officer de facto; and generally, if not universally, his acts are good as to third parties, however irregular his appointment or qualification[.] ... (Rice v. Commonwealth, 66 Ky. 14, 3 Bush 14, 1867 WL 4050 (1867)

Many public libraries, and most other governmental offices, continue to utilize the "code duello" as the oath for their members. In order to promote consistency and reduce any confusion, KDLA has decided to change the oath listed in the Kentucky Public Trustee Manual to that which reflects the wording of the constitutional "code duello" oath. We hope you will consider adopting this change when administering the oath of office to your board members. The "code duello" oath, in addition to being the most commonly administered oath in the Commonwealth, carries forward a tradition that harkens to our state's earliest history.

There is no guidance in the law on how the oath needs to be administered, but the wording suggests that it is read by the person taking the oath. There is guidance on who can administer the oath in KRS 62.020. Most commonly it is administered by the County Judge/Executive or a notary public, but see the KRS for additional people who are able to perform the duty. The administration of the oath does not affect the start date of the term of office or affect the end date of the last trustee holding that office.

A signed copy of the oath of office should be kept at the county clerk's office as stated in KRS 62.020(d): "In the office of the county clerk for the county from which an officer is elected to countywide office or office for a district within the county". It is also a good idea to keep a copy of the signed oath at the library.

A copy of the "code duello" oath is available at <http://kdla.ky.gov/librarians/trustees/Documents/Oathofoffice.pdf>.

This is not legal advice and I am not an attorney. If you feel you need legal advice you should consult an attorney.

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